

1 REUWER LONG TERM HOLDINGS, LLC \* BEFORE THE  
2 PETITIONER \* PLANNING BOARD OF  
3 PLANNING BOARD CASE NO. 384 \* HOWARD COUNTY, MARYLAND

4 \* \* \* \* \*

5 **DECISION AND ORDER**

6  
7 On July 8, 2009, the Planning Board of Howard County, Maryland, in accordance with  
8 Section 107.E of the Howard County Zoning Regulations, held a public hearing to consider the  
9 petition of Reuwer Long Term Holdings, LLC, for approval of a Preliminary Equivalent Sketch  
10 Plan (SP-09-04), Riverside Overlook, Phase 2, for the subdivision of 27 single family detached  
11 (SFD) residential lots, 1 buildable lot to be used for an approved conditional use for offices and  
12 educational programs for the Church of God and 4 open space lots on a property owned by  
13 the Petitioner and consisting of 28.7 acres of land zoned "R-20" (Residential-Single), but  
14 being developed pursuant to the "R-ED" (Residential-Environmental Development) Zoning  
15 Regulations in accordance with Section 108.F.3 of the Zoning Regulations. The subject  
16 property is located at the southern terminus of Long View Road, approximately 400 feet south  
17 of Rivers Edge Road and along the west side of U.S. Route 29, identified as Parcel No. 179 on  
18 Tax Map No. 41, in the Fifth Election District of Howard County, Maryland.

19 The Notice of Hearing was published in two newspapers and the subject property was  
20 posted in accordance with the Planning Board's requirements, as evidenced by certificates of  
21 publication and posting, all of which were made a part of the record in this case. Pursuant to  
22 the Planning Board's Rules of Procedure, all of the reports and official documents pertaining to  
23 the petition, including the petition, the Technical Staff Report of the Department of Planning  
24 and Zoning, the Howard County Code, the Howard County Design Manual, the 2000 General  
25 Plan of Howard County, the Howard County Zoning Regulations and Zoning Map, the Howard  
County Subdivision and Land Development Regulations including the Forest Conservation  
Regulations and Manual, the Howard County Landscape Manual, the Adequate Public

1 Facilities Ordinance, and the subdivision plan and the comments from the Subdivision Review  
2 Committee agencies were made part of the record in this case.

3  
4 **PLANNING BOARD HEARING**  
5

6 The Chairperson opened the public hearing at approximately 8:20 p.m. Kent  
7 Sheubrooks of the Department of Planning and Zoning (DPZ) presented the Technical Staff  
8 Report, which recommended approval of the Preliminary Equivalent Sketch Plan subject to  
9 compliance with all the Subdivision Review Committee (SRC) comments previously issued for  
10 SP-09-04 to the developer by letter dated January 23, 2009.

11  
12 **PETITIONER'S TESTIMONY**

13 The Petitioner was represented by Mr. Joseph W. Rutter, the developer and Robert H.  
14 Vogel, professional engineer for Robert H. Vogel Engineering, Inc., the petitioner's plan  
15 consultant. Mr. Rutter acknowledged agreement with the DPZ staff report recommendation  
16 and entered the following Petitioner's Exhibits into the record for this case, Exhibit No. 1,  
17 "Existing Conditions Plan for the Property" and Exhibit No. 2, "Proposed R-ED Subdivision  
18 Plan". Mr. Rutter testified about the proposed subdivision plan stating that the property is  
19 zoned "R-20" but being developed pursuant to the "R-ED" Zoning Regulations. Mr. Rutter  
20 testified that the subdivision plan included the 3 existing Church of God house lots to maintain  
21 the integrity of the project boundary along the outer perimeter of the property. Mr. Rutter stated  
22 that the Church of God had outgrown their existing buildings on site but that they decided to  
23 seek a conditional use to allow them to reconstruct a new office building in order to stay on this  
24 site within Howard County. Mr. Rutter testified that the project met all of the Planning Board  
25 criteria for protecting the environment. He explained that Petitioner's Exhibit No. 1 showed all  
of the existing on-site Church of God structures and pavement to demonstrate that the  
property is an already developed site and that the developer would remove most of the

1 existing structures and paving when they were ready to start construction because they didn't  
2 want to disturb the floodplain areas twice.

3 Mr. Rutter further testified that the new redesigned "R-ED" subdivision plan was a  
4 major improvement over the previously approved "R-20" subdivision plan for the property. He  
5 further explained that the extension of Long View Road would utilize the same existing private  
6 road bed and that the storm water management facility had been pulled further away from the  
7 environmental features. Mr. Rutter stated that the new plan relocated a use-in-common  
8 driveway so that it no longer crossed the stream and buffer to serve the residential lots along  
9 the western perimeter of the site and that the area will now be placed in forest conservation  
10 easement. He explained that the plan now places the use-in-common driveway along the  
11 western edge of the site so that the new houses in that area will have their front yards facing  
12 the adjacent Riverside community. Mr. Rutter further testified that 29 lots were permitted but  
13 that the proposed plan will have only 28 lots and that the project achieved the intent and goals  
14 of Council Bill 50 for neighborhood preservation. He concluded his testimony by stating that  
15 the subdivision plan complies with all of the "R-ED" Zoning Regulations and the Planning  
16 Board criteria.

17  
18 Planning Board members, Ms. CitaraManis and Mr. Rosenbaum questioned the  
19 petitioner concerning why the 3 existing house lots were included in this subdivision plan and  
20 about the project's proposed noise wall or berm along Route 29.

21  
22 After the Petitioner's presentation, the Planning Board allowed concerned residents in  
23 the audience to ask the Petitioner's representatives questions and to testify about the  
24 proposed development plan.

25  
**OPPOSITION TESTIMONY**

1 Ms. Mary Stuart asked a question of the Petitioner and testified about the proposed  
2 development plan concerning the existing traffic problems the neighborhood experiences with  
3 access onto Route 29 at the existing traffic signal and whether a second road connection  
4 could be made somewhere to help alleviate the traffic concerns.

5  
6 Mr. Rutter responded to all of her specific inquiries.

7  
8 Mr. Grabowski, Chairperson, closed the hearing at approximately 9:00 p.m. and the  
9 Board proceeded to deliberate and vote on the case in open session. The Planning Board  
10 members in attendance motioned for a vote in this case.

11  
12 After careful evaluation of all of the testimony and information presented at the  
13 hearing, the Howard County Planning Board made the following Findings of Fact and  
14 Conclusions of Law.

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16 **FINDINGS OF FACT**

17 1. The proposed Preliminary Equivalent Sketch Plan, SP-09-04, is for the subdivision of  
18 28 building lots with 27 single family detached residential lots and 1 buildable lot to be used for  
19 an approved conditional use for offices and educational programs for the Church of God and  
20 with 4 remaining open space lots.

21 2. This project is subject to compliance with the Howard County Subdivision and Land  
22 Development Regulations including the Forest Conservation Regulations and Manual, the  
23 Howard County Landscape Manual, the Howard County Zoning Regulations and Zoning Map,  
24 the Howard County Design Manual and the Adequate Public Facilities Ordinance.

25 3. The area of the proposed subdivision plan is approximately 28.7 acres and the area of  
the proposed credited open space lots is approximately 20.08 acres or 70 percent of the site.

1 4. The proposed residential development plan does effectively protect, preserve and  
2 minimize disturbance of the environmental resources on the subject property. The plan  
3 proposes open space acreage that is more than the acreage required. The open space will  
4 contain the areas of wetlands, streams, environmental buffers, floodplain, protected 25 percent  
5 or greater steep slopes, and will be predominately forested. The environmental resources will  
6 be preserved and protected within open space lots that will be dedicated to the Howard  
7 County Department of Recreation and Parks and/or the Homeowners Association. The  
8 development plan does not propose disturbance within the environmentally sensitive areas,  
9 except for the installation of public sewer line extension that involves a disturbance within the  
10 50' intermittent stream buffer as approved by the Department of Planning and Zoning as an  
11 essential disturbance in accordance with Section 16.116(c) of the Subdivision and Land  
12 Development Regulations.

13 5. The total limit of disturbed area for the proposed development including the public road  
14 extension, private use-in-common driveways, public utilities, house pad sites for building lots  
15 and storm water management facilities will involve approximately 8.85 acres or 31% of the  
16 site. Grading for the proposed development will not involve disturbances of the protected 25%  
17 or greater steep slopes with a contiguous area over 20,000 square feet, 100 year floodplain,  
18 wetlands, streams or required buffers, except for the installation of the public sewer line  
19 extension.

20 6. The subdivision plan accomplishes protection of environmental and historic resources  
21 by the following means:

- 22 a. There are no historic structures or resources on this property;
- 23 b. By placing and clustering the residential lots and common driveways on the moderately  
24 sloped area of the site away from the 25% steep slopes, wetlands, streams, 100 year  
25 floodplain and forest conservation areas. The proposed houses, driveways, utilities and  
public road extension will be located primarily on previously disturbed areas of the site

1 that are presently improved with the Church of God campground facilities (existing  
2 structures, driveways and other various paved surfaces or lawn area);

3 c. By keeping the proposed lot sizes close to the minimum lot size requirement of 6,000  
4 square feet;

5 d. By maximizing the amount of environmental open space with the establishment of more  
6 than 70% open space areas on-site which exceeds the minimum 50% open space  
7 requirement. The project provides a substantial environmental buffer of approximately 800  
8 feet between the proposed residential development and the Middle Patuxent River.

9 e. By keeping the public road and shared driveway lengths to a minimum to reduce the  
10 amount of imperious paving, grading and tree clearing on-site. The alignment for the  
11 proposed public road extension follows an existing private access driveway that presently  
12 serves the Church of God campground facility.

13 f. By removing the existing paved driveways and parking areas, buildings and other site  
14 improvements that are presently located within the floodplain, wetlands and stream buffer  
15 areas.

16 In employing the above design and construction techniques, the amount of grading, tree  
17 clearing and paving are reduced to the extent possible to minimize the limits of disturbance on  
18 the subject property.

19 7. The proposed subdivision plan design has been determined adequate in taking  
20 advantage of the uniqueness of the site's topography by minimizing the limits of clearing and  
21 grading necessary to construct houses, the public road, private use-in-common drives, SWM  
22 facilities and public utilities. When compared against the existing approved "R-20" designed  
23 subdivision plan for this property, the proposed "R-ED" redesigned plan significantly reduces  
24 the environmental impact and the total limit of disturbance for this site.

25 8. Setbacks, landscape buffers, or other methods are proposed to buffer the development  
from existing adjacent residential dwellings and roads. Compliance with the required 75'  
setback and preservation of existing vegetation along the subdivision perimeter with enhanced

landscaping along the eastern boundary and a noise wall and/or berm adjacent to U.S. Route 29 will adequately buffer the proposed development from the surrounding neighborhood and roads.

9. Sensitive environmental areas will be permanently protected, either by dedication as open space or by forest conservation and 100 year floodplain easements. The wetlands, streams, environmental buffers, floodplain, and a majority of the 25 percent or greater steep slopes and forested areas will be located and protected on open space lots. The most environmentally sensitive areas of this site are located along the Middle Patuxent River which will be permanently protected and preserved as recorded forest conservation and 100 year floodplain easements and dedicated as open space to Howard County Department of Recreation and Parks.

10. A 6' high noise berm and/or wall will be provided adjacent to U.S. Route 29 to mitigate excessive noise levels. A Type 'B' landscaped buffer will be provided along the project's western boundary adjacent to the existing Riverside community. The perimeter landscape buffer requirements will be satisfied with the retention of existing trees supplemented with new landscape trees as necessary.

11. The proposed development will be served by public water and sewer.

12. In accordance with Sections 108.F and 128.L of the Zoning Regulations, a parcel of 11 acres or greater in size in the "R-20" Zoning District may be developed as a receiving parcel for additional density in association with Density Exchange for a Neighborhood Preservation Easement sending parcel at a bonus of up to 10% more dwelling units than would be achievable based on net density using the "R-ED" Zoning Regulations. This subdivision is proposed to receive 1 density exchange unit from Lot 10 of the Riverside Estates subdivision which will be exchanged and recorded under the final plan submission for this project. This subdivision proposal complies with the Zoning Regulation requirements for use of the "R-ED" Zoning Regulations and to receive a Neighborhood Preservation Density Exchange unit.

13. The Planning Board accepts the Department of Planning and Zoning's evaluation of the petition as provided in the Technical Staff Report.

#### CONCLUSIONS OF LAW

The proposed Preliminary Equivalent Sketch Plan, SP-09-04, satisfies all of the standards for approval of a Sketch Plan provided in Section 107.E.6 and 108.F.3 of the Howard County Zoning Regulations for the reasons stated in the Department of Planning and Zoning's Technical Staff Report.

For the foregoing reasons, the petition of Reuwer Long Term Holdings, LLC, for approval of a Preliminary Equivalent Sketch Plan for 28 building lots with 27 single family detached residential lots and 1 buildable lot to be used for an approved conditional use for offices and educational programs for the Church of God and with 4 remaining open space lots located on approximately 28.7 acres of land zoned R-20 but being developed pursuant to the "R-ED" Zoning Regulations, is this 17th day of August, 2009, APPROVED by the Planning Board of Howard County.

HOWARD COUNTY PLANNING BOARD

  
David Grabowski – Chairperson

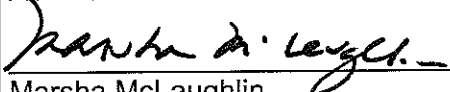
  
Gary Rosenbaum – Vice-Chairperson

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Linda A. Dombrowski

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Tammy CitaraManis

  
Paul Yelder

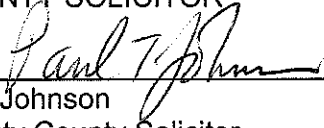
ATTEST:



Marsha McLaughlin  
Executive Secretary



1 REVIEWED FOR LEGAL SUFFICIENCY BY:  
2 HOWARD COUNTY OFFICE OF LAW  
3 MARGARET ANN NOLAN  
4 COUNTY SOLICITOR

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6 \_\_\_\_\_  
7 Paul Johnson  
8 Deputy County Solicitor  
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15 **LIST OF APPLICANT'S EXHIBITS**

16 **PB-384 (SP-09-04), RIVERSIDE OVERLOOK**

17 Exhibit No. 1, "Existing Conditions Plan for the Property"

18 Exhibit No. 2, "Proposed R-ED Subdivision Plan"

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21 **LIST OF PROTESTANT'S EXHIBITS**

22 None were introduced  
23  
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